

Document No. 2694
SOUTH CAROLINA LOTTERY COMMISSION
CHAPTER 44
Statutory Authority: 2001 Act No.59

44-10 – 44-140. South Carolina Education Lottery

Synopsis:

The South Carolina Education Lottery Act (Act 59 of 2001) requires the South Carolina Lottery Commission to promulgate regulations to carry out and implement its powers and duties to regulate the conduct and operation of lottery games. The proposed regulations will provide the Commission with necessary policies and procedures to organize and operate the Commission, regulate the conduct of lottery games, and address other matters necessary and desirable for the efficient and effective operation of the lottery for the public convenience.

Sections 44-10 through 44-130 address the purpose of the new regulations, its applicability, requirements, and definitions.

44-10 Defines the meaning of words and terms used throughout SCEL regulations.

44-20.10 Establishes general licensure provisions. Authorizes the Executive Director to issue lottery licenses. Requires an applicant to file an application. Provides that the issuance of a lottery license is a privilege which is subject to suspension, revocation, or termination as provided in Section 59-150-150(B)(4).

44-20.20 Establishes that an applicant for a lottery license may not be approved if: (1) the business is to be solely engaged in the sale of lottery products; (2) the gross revenues of the business from the sale of lottery tickets is more than 60%; (3) the applicant is under 21 years of age; (4) a foreign corporation is not registered in South Carolina; or (5) the business is ineligible pursuant to the Education Lottery Act or regulations or rules of SCEL.

44-20.30 Provides that a criminal background check must be performed on certain applicants applying for retail lottery licenses, including operational managers and employees of businesses selling lottery products.

44-20.40 Authorizes the Executive Director to license lottery retailers for a period of time of not less than one year. For purposes of licensure, the Executive Director shall consider the following: (1) the moral character and reputation of the applicant; (2) the financial responsibility of the applicant's business; (3) the accessibility of the applicant's business to the public; (4) the number and sufficiency of businesses selling lottery products; (5) the expected volume of lottery game sales; (6) the security and efficient operation of the Lottery; (7) the eligibility of the applicant to be licensed under the Act; (8) whether the applicant's application is truthful; (9) whether the applicant is current on his/her state tax; and (10) whether the applicant owes an unpaid debt to SCEL.

44-20.50 Provides that licenses shall be renewed annually and renewals may be staggered, but all applications for renewal must be returned to SCEL 30 days prior to expiration. The Executive Director may issue a license pending a final determination of eligibility for licensure.

44-20.60 Provides the justification for the Executive Director to cancel, revoke, suspend, terminate, or deny the renewal of a license as required by the Act. Some of the reasons include: (1) selling a ticket at a price greater than that authorized by the Commission; (2) selling a lottery ticket to a person under 18 years of age; (3) accepting anything other than cash for a lottery ticket; (4) transferring ticket stock without consent of SCEL; (5) selling lottery tickets at a location that is not on the license certificate; (6) material misrepresentation on an applicant's application for licensure; (7) failure to properly notify, report, or settle accounts with SCEL regarding lottery tickets; (8) failure to display license and display material; and (9) failure to report a conviction of any felony or a crime related to gambling during the term of the license.

44-20.70 Provides that licenses may not be transferred and lottery game tickets may only be sold by the retailer named on the license or his employee or agent.

44-30 Authorizes the Executive Director to enter into a contract with a lottery retailer for the sale of lottery tickets or refuse to renew or license a retailer. A retailer may appeal an adverse decision of the Executive Director regarding licensing to the Commission and appeal an adverse decision of the Commission to the Administrative Law Judge Division. SCEL is also authorized to establish a weekly fee for online services to recoup some of the cost of administering the online services and associated telecommunication charges. No retailer who sells only instant tickets may be charged an online fee.

44-40.10 Authorizes SCEL to select, operate, and contract for the operation of instant games and establishes the criteria for instant games including types of games, maximum cost of tickets, frequency of ticket drawings and additional special prize drawings. The price of a ticket shall not be more than \$10. Winning tickets are determined by matching or specified alignment of numbers, digits, and symbols on the tickets. The Commission shall determine the numerical frequency and prize amounts for winning tickets. Also provides procedures for claiming instant prizes are established and retailers are required to pay prizes up to and including \$500 during normal business hours. Prizes may be paid up to 90 days after the end of the official game and retailers must return all unopened tickets for each game within 30 days of the game ending. SCEL has no obligation to grant credit for tickets not returned more than 30 days after the official game ends.

44-40.20 Provides that an instant ticket must pass validation requirements to be eligible for a prize. Some of the requirements for validation include: (1) the ticket must be issued as authorized by the Executive Director; (2) the ticket may not be altered, mutilated, unreadable, reconstructed, or tampered with; (3) the ticket is not counterfeit; (4) the ticket is not stolen; (5) the ticket is complete and not blank or partially blank; and (6) the ticket passes all additional confidential validation requirements. Once validated, a lottery retailer must deface the ticket in a manner as prescribed by the Executive Director.

44-50.10 Authorizes SCEL to select, operate, and contract for the operation of online games and establishes the criteria for instant games including types of games, maximum cost of tickets, frequency of ticket drawings and additional special prize drawings. The price of a ticket shall not be less than \$0.50. Also provides procedures for claiming instant prizes are established and retailers are required to pay prizes up to and including \$500 during normal business hours. Retailers may pay prizes in cash, or business check, certified check, money order, or a combination thereof. Prizes may also be claimed by submitting a winning ticket to SCEL for validation and payment. Prizes may be paid up to 180 days after the drawing in which the prize was won.

44-50.20 Provides that the Executive Director shall determine the location, times, and days of prize drawings, including the equipment to be used to establish randomly selected winning combinations. Also, the Executive Director is required to establish procedures governing the conduct of drawings for each online game. This includes procedures to be used when a mechanical failure occurs resulting in a foul called by the drawing representative. The Executive Director shall delay payment of all prizes if any evidence of tampering or fraud has occurred until an investigation is completed and the drawing is certified.

44-50.30 Provides that a winning online ticket must meet all of the following conditions to be validated: (1) All printing on the ticket shall be present in its entirety, be legible and correspond, using the computer validation file, to the combination and date printed on the ticket. (2) The ticket must be intact. (3) The ticket shall not be altered, mutilated, unreadable, reconstructed, or tampered with. (4) The ticket shall not be counterfeit. (5) The ticket must have been sold by a lottery retailer. (6) The ticket shall not have been stolen or canceled. (7) The ticket shall not have been previously paid. (8) The ticket shall pass all confidential security checks

44-55 Provides that SCEL may enter into a multi-state agreement for the sale of instant game tickets, online game tickets, and other such related products including game shows and promotional products as authorized by Section 59-150-59. Rules governing the sales, validation and redemption of prizes shall be governed by the multi-state agreement entered into on behalf of SCEL.

44-60 Requires that the Executive Director submit to the Commission a draft of all online game rules. The Commission may adopt or modify the online game rules as necessary for the efficient and effective operation of the lottery.

44-70 Prohibits the award of a prize to an individual who is not 18 years of age and who has not completed and signed a claim form. In the event that a group of people win a prize, the group must designate one person to file the claim. No prize will be paid by the lottery for a prize that is not claimed within the required time. The lottery may deny awarding a prize to a claimant if the ticket is printed or produced in error.

44-80 Authorizes the Executive Director to make lawful payment on a claim to someone other than the purchaser, if certain conditions exist. SCEL may pay a claim to a court-appointed guardian, executor, administrator, receiver, or other court-appointed assignees. The Executive Director may pay prizes to a decedent's estate or petition the court to determine the payee for a decedent.

44-90.10 Provides that all retailers must make payments to SCEL for lottery sales by using Electronic Funds Transfer (EFT). The retailer must deposit proceeds from lottery sales into the special account as required by SCEL. The Executive Director may revise the times of deposit as necessary for the efficient operation of the lottery.

44-90.20 Provides that a lottery retailer may have his license suspended for failing to timely deposit funds into his or her EFT account for the payment of lottery games. SCEL may assess the following penalties: (1) for a first occurrence in a twelve-month period shall be a written warning of the future consequence of such actions; (2) for a second occurrence in a twelve-month period the Executive Director shall suspend all lottery activity for up to seven days and assess a fine of not less than \$100 nor more than 10% of the average gross proceeds from the last 10 weeks; (3) for a third occurrence in a twelve-month period the Executive Director shall suspend all lottery activity for up to seven days and assess a fine of not less than \$300 nor more than 20% of the

average gross proceeds from the last 10 weeks. The Executive Director may exercise discretion in determining whether the provisions of this section have been violated.

44-90.30 Requires that SCEL create certain financial accounts for the efficient operation of the lottery as required by the Act. Also provides for the use of such accounts and requires that no less than 45% of the gross proceeds from the sale of lottery games for the payment of prizes.

44-90.40 Authorizes the Executive Director to require a retailer to post a bond or other appropriate security as proof of financial responsibility. The Executive Director shall determine the amount and the form of any required bond.

44-100 Individuals may be required to use identifying numbers on payments, statements and transactions with SCEL.

44-110 Requires lottery retailers to provide information to SCEL in a form prescribed by SCEL.

44-120 The Executive Director is responsible for providing certain daily, monthly and annual reports as may be requested by the Commission.

44-130 Authorizes SCEL to enter into licensing agreements for the use of trademarks or other copyrighted materials. SCEL may allow lottery retailers to use and display the Lottery logo, trademark, and other advertising materials without charge.

44-140 Provides that regulations may not be construed to allow any lottery or lottery games prohibited by the Act.

Instructions: Add new R.44-10 through 44-140, South Carolina Lottery Commission, to new Chapter 44.

Text:

44-10. Definitions.

- A. "Act" means the South Carolina Education Lottery Act (Act 59 of 2001).
- B. "Applicant" means a corporation, partnership, unincorporated association, or other legal entity.
- C. "Bank" means and includes all commercial banks, mutual savings banks, savings and loan associations, credit unions, trust companies, and any other type or form of banking institution organized under the authority of the State of South Carolina or the United States of America whose principal place of business is within the State of South Carolina and which is designated to perform banking institution functions, activities, or service in connection with the operations of SCEL for the deposit and handling of lottery funds, the accounting of the funds and the safekeeping of records.
- D. "Bar code validation" means a system which allows any winning lottery ticket, printed with computer readable bar codes, for a prize of up to \$500, or other amount as directed by the Commission, to be read electronically at any lottery retailer location and paid by the retailer regardless of where the player purchased the ticket.
- E. "Certified Drawing" means a number selection event about which SCEL and an independent certified public accountant attest that the drawing equipment functioned properly and that a random selection of a winning combination occurred.
- F. "Commission" or "Board" means the South Carolina Lottery Commission (SCEL) created by the Act, as and if amended.

G. “Depository” means any entity, including a bank or state agency, performing activities or services in connection with the operation of the SCEL for the deposit and handling of lottery funds, the accounting for lottery funds, and the safekeeping of tickets.

H. “Drawing” means the procedure determined by the Commission to select the winning combination in accordance with the game rules of the particular lottery game.

I. “Employee” means a person who is an employee of the Commission unless the context clearly indicates otherwise.

J. “Executive Director” means the individual appointed by the Commission to initiate, supervise, and administer the operation of SCEL games.

K. “Game” means any individual or particular type of lottery authorized by the Commission pursuant to the Act including but not limited to instant game tickets and online game tickets.

L. “Instant Game” means a game in which a ticket is purchased and upon removal of a latex covering or other covering on the front of the ticket or the opening of the sealed ticket, the ticket bearer determines his or her winnings, if any, which are payable upon presentation to a lottery retailer or to SCEL for payment.

M. “Instant Ticket” means a printed card or slip purchased for participation in an instant game.

N. “Lottery” or “SCEL” means the South Carolina Lottery Commission, the Commissioners, and the Executive Director which operates and administers the South Carolina Education Lottery Act.

O. “Lottery Game” means the public gaming system or games established and operated by SCEL.

P. “Lottery Retailer” means any person licensed by SCEL to sell and dispense instant tickets and materials or lottery games, not to include operation of electronic computer terminals in lottery sales and dispensing, unless otherwise authorized.

Q. “Lottery Ticket” or “Tickets” means tickets or other tangible evidence of participation used in lottery games pursuant to the Act.

R. “Online Game” means a lottery game in which a player pays a fee to a lottery retailer and selects a combination of digits, numbers, or symbols, the type and amount of play, and the drawing date, and receives a computer-generated ticket with those selections printed on it.

S. “Online Terminal” means the electronic computer terminal through which a lottery retailer enters the combination of digits, numbers, or symbols selected by a player and by which online tickets are generated and claims are validated.

T. “Online Ticket” means a computer-generated ticket issued by a lottery retailer to a player as a receipt for the combination of digits, numbers, or symbols a player has selected.

U. “Person” means a human being, association, corporation, club, trust, estate, society, governmental entity, company, joint stock company, receiver, trustee, assignee, referee, and anyone acting in a fiduciary or representative capacity, whether appointed by a court or otherwise, and any combination of human beings.

V. “Prize” means any award, financial or otherwise, awarded by the Commission.

W. “Ticket Bearer” means the person who has signed the ticket or has possession of the unsigned ticket.

X. “Ticket Number” means the preprinted number found on the back of each ticket which identifies that particular ticket as one (1) of a series of tickets.

Y. “Ticket Pack Number” means the printed number or numbers appearing on the back of each ticket.

Z. “Unclaimed Prize” means the prize on a winning ticket for which no claim is made within 180 days after the drawing or winner selection event which made the ticket a winning ticket.

AA. “Unclaimed Prize Account” means the SCEL account to which unclaimed prizes are transferred.

BB. “Validation” means the process of determining whether an instant or online ticket presented for payment is a winning ticket.

CC. "Validation Number" means the multi-digit number found on the face of the ticket. There must be a validation number on each ticket.

DD. "Winner of an instant game" means the holder of an instant lottery ticket determined to have the required match or the specific alignment of the play numbers, digits or symbols or the required sum of the play numbers or digits in accordance with the game rules for the specific game.

EE. "Winner selection" means the drawing process used by SCEL to select the winning numbers in online games with live drawings.

FF. "Winning Combination" means numbers or symbols chosen during the drawing process used by SCEL to select the winning numbers in online games with live drawings.

44-20.10. Licensing.

A. Pursuant to Section 59-150-40(H), the Commission delegates to the Executive Director the authority to issue lottery retail sales licenses as provided in Section 59-150-150(A). Lottery retailers must meet the security and integrity standards of the Commission, the statutory and regulatory requirements for licensing, promote the sale of lottery games and promote the best interest of the Lottery and South Carolina.

B. An applicant interested in obtaining a license as a lottery retailer must submit an application with the Executive Director on a form supplied for that purpose by the Executive Director. The retail sales application shall be designed to solicit sufficient relevant information from an applicant to permit the Executive Director to evaluate the applicant and the sales location as required by the Education Lottery Act and regulations for issuance of a license by the Commission.

C. The license issued for a lottery retail sales location is a privilege and does not create a property interest and is not a legal right. The license and lottery retailer contract is subject to suspension, revocation or termination by the Executive Director as provided in Section 59-150-150(B)(4). Upon demand, a lottery retail sales license must be surrendered to the Executive Director.

44-20.20. Eligibility for licensing.

A. An application for licensure as a lottery retailer may not be approved if:

- (1) the business is to be solely engaged in the sale of lottery products;
- (2) the annual gross revenue of the business from the sale of lottery games or shares accounts for more than sixty percent (60%) of the annual gross revenue of the business;
- (3) the applicant is under the age of twenty-one (21);
- (4) a foreign corporation is not currently registered to do business within South Carolina; or
- (5) the business is ineligible pursuant to the Act or the regulations or policies established by the Commission.

44-20.30. Background Investigations for Licensing.

A. For purposes of the criminal background investigation required by Sections 59-150-150(C) and 59-150-165(C), "the operational manager" is the employee who has day-to-day operational management responsibilities for the business or entity. As provided in Section 59-150-165(C)(2), the Commission finds and determines that the operational manager is one of the appropriate employees on whom a criminal background investigation must be conducted unless otherwise directed by the Commission. For purposes of retail sales licensing, the operational manager is deemed to be the employee who is designated by the applicant as the employee responsible and accountable for the overall supervision of the lottery operation for the applicant that is seeking licensure for one or more retail locations. This employee must have decision-making authority for lottery transactions, including but not limited to, the authority for placing ticket orders with the Commission or the authority to designate the employees to transact business with the Commission. An applicant may elect to include an operational manager for each retail

location but is not required to do so. The operational manager(s) must be designated on the retailer license application.

B. In the case of an applicant doing business as a sole proprietorship, the sole proprietor must undergo a background investigation required by Section 59-150-165(C).

C. In addition to the criminal background investigation provided for operational managers by Section 59-150-165(C)(2)(e), a criminal background investigation must be performed on all principals of the person (applicant). For purposes of this investigation unless otherwise specified by the Commission, "principal" means:

- (1) the directors and officers of an association;
- (2) all partners of a partnership, limited partnership, or limited liability partnership;
- (3) all members of a limited liability company, or if the company is a manager-managed company, all members and managers;
- (4) all trustees of a trust; and
- (5) for a corporation, its directors, officers, and stockholders with a ten percent or more direct or beneficial interest or any person or entity that receives more than ten percent of the net income.

D. If a corporation is a member of a controlled group of corporations, as defined in 26 U.S.C. 1563, or a member of an affiliated group of corporations, as defined in 26 U.S.C. 1504, and at least one member of the group of corporations is a publicly-held corporation, only the corporation which seeks the retailer contract pursuant to this chapter is considered a principal for purposes of this chapter, along with its directors, officers, and stockholders as described in subsection (C)(5) of this section.

- (1) For purposes of this section, "publicly-held corporation" means a corporation:
 - (a) whose shares are traded on a national exchange; and
 - (b) whose total assets at the end of the corporation's most recent fiscal quarter exceeded one billion dollars.

E. The individuals identified in subsection (A) of this section for each respective applicant must (1) be listed on the Retail Sales Application and (2) undergo a background investigation conducted by the South Carolina Law Enforcement Division.

If the headquarters of the corporation or other business entity listed in subsection (A) is not located in South Carolina or if the business is not organized pursuant to South Carolina law, the applicant must identify the highest ranking employee of the entity who is a South Carolina resident on the retail sales application. The name, date of birth, Social Security number, title and address of this employee must be included on the Retail Sales Application and this individual must undergo a criminal background investigation as provided in this section. If this employee is also the operational manager, the applicant (business entity) does not need to designate an additional employee for purposes of a background investigation.

F. The Executive Director is granted the discretion to exercise judgment, consistent with the intent of these regulations, to determine which individuals should undergo a criminal background investigation when a combination of business entities or sub entities are organized or arranged in such a way as to not precisely conform with the provisions of subsection (C) or (D). The Executive Director, upon information or belief, may require additional background or follow-up investigative work to be conducted when, in his or her discretion, the integrity or security of the Lottery warrants such action.

44-20.40. Issuance of licenses.

A. Upon receipt, review and investigation of an application and applicant background, the Executive Director may issue a lottery retail sales license for the sale of lottery games in accordance with the Act and these regulations for a period of time not less than a year. The Executive Director shall license only those retail sales locations which will best serve the public interest and public trust

in the lottery and promote the sale of lottery games. The Executive Director shall consider the following factors for licensure and renewal:

- (1) The moral character and reputation of the applicant;
- (2) The financial responsibility and security of the applicant's business or activity;
- (3) The accessibility of the public to the licensed premises proposed by the applicant;
- (4) The number and sufficiency of existing licenses to serve the public interest;
- (5) The expected volume of lottery game sales;
- (6) The security and efficient operation of the Lottery;
- (7) Whether the applicant is ineligible under any provisions of the Education Lottery Act;
- (8) Whether the applicant has provided false or misleading information or has misrepresented information regarding qualifications or fitness for licensure;
- (9) Whether the applicant is currently licensed to do business within the State of South Carolina and whether the applicant is current in state tax payments and the filing of state tax returns; and
- (10) Whether any person listed on the application owes an unpaid debt to the Lottery.

44.20.50. License term and renewal, fees.

A. Every holder of a license shall renew the license annually. Renewal applications shall be returned to SCEL thirty (30) days prior to the expiration of the license to be considered a timely application. The Executive Director may revise the established renewal dates to allow renewals to be staggered on a monthly basis.

B. Pending a final resolution of any question arising in respect to a licensing decision, the Executive Director may issue a license subject to any terms and conditions he or she considers appropriate.

44-20.60. Revocation; grounds for removal or suspension of license or non-renewal of license.

A. If, at any time after issuance of a license, it is determined by the Executive Director that a lottery retailer no longer meets the standards for licensure, the Executive Director or his designee may cancel, suspend, revoke, terminate or deny renewal of a license or contract, upon giving notice to the lottery retailer. The suspension shall remain in effect until the reason for suspension has been abated or cured, or in the alternative, the Executive Director may revoke the license.

B. If the lottery retailer fails to observe and comply with the procedures and regulations of the Commission or with the provisions of the Act, or orders or instructions of the Executive Director, the license and/or contract may be canceled, suspended, revoked or terminated.

C. Additional grounds for suspension or revocation of license:

(1) The Executive Director may suspend or revoke the license of a lottery retailer who does not comply with the Act and all rules, conditions, standards and other policies adopted, promulgated or issued under the Act, by the Commission or the Executive Director.

(2) The Commission or Executive Director may suspend or revoke the license of any lottery retailer who violates one of the following prohibitions:

- (a) Selling a ticket at a price greater than or less than that stated by the Commission.
- (b) Selling a ticket at a location or premises different than that shown on the license certificate.
- (c) Permitting the sale of tickets by someone other than the retailer's employees or agents.
- (d) Selling a ticket to a person under eighteen (18) years of age.
- (e) Inviting, soliciting, demanding, or offering or accepting any payment, contribution, favor, or other consideration to influence the award, renewal or retention of a license, directly or indirectly, on behalf of himself or herself or another corporation.
- (f) Accepting anything other than cash for the sale of a ticket.

(g) Transferring ticket stock, used for online terminals, between stores unless prior written consent is granted by the Executive Director or his or her designee.

(h) Transferring instant tickets between individual stores unless prior written consent is granted by the Executive Director or his or her designee.

(i) Selling any lottery ticket, lottery chance or lottery product unless the game being sold is approved by the Commission.

D. The Executive Director may suspend the license or suspend operation or revoke the license of a retail sales location(s) of a lottery retailer for any of the following:

(1) Material misrepresentation in connection with his or her application for a license, in any of his or her reports, or to any person in connection with a lottery transaction;

(2) Engaging in the sale of lottery tickets as his or her sole business, occupation or activity;

(3) Failure to take adequate security precautions for the safe handling of tickets, lottery materials or ticket sales proceeds due from the lottery retailer's ticket sales;

(4) Failure to regularly, promptly and accurately settle the accounts of his or her lottery transactions and pay the amounts due from the lottery retailer's ticket sales;

(5) Failure to notify the Executive Director of any change in ownership ten days prior to any proposed change in ownership;

(6) Failure to open his or her books or records for reasonable inspection by the Commission, the Executive Director or his or her designee during normal business hours;

(7) Failure to display his or her license or required advertising and display material;

(8) Failed to make a report of a violation of the Act, these regulations, the policies or procedures required by the Commission or the Executive Director; or

(9) Failure to report a conviction of any felony or a crime related to theft or gambling, during the term of his or her license. If a lottery retailer is convicted of a felony or a gambling-related offense, the lottery retailer shall within fourteen (14) days, notify the Executive Director, in writing, of the conviction and the offense. For purposes of this section, a lottery retailer includes the operational manager or an individual or person who holds an ownership interest requiring a criminal background investigation as provided in R.44-30.

44-20.70. License transfers prohibited.

A. No license may be transferred or assigned.

B. Lottery games may be sold only by the lottery retailer named on the license or by an employee or agent of the retailer named on the license and only at the location named on the lottery retailer license.

44-30. Contract.

A. The Executive Director shall enter into a contract for each approved lottery retail sales location. The contract shall set out the duties, responsibilities, and obligations pertaining to the parties to the contract. The contract shall continue in effect during the period in which the retailer complies with applicable statutes, rules, fee requirements, and any other duties or requirements under the terms of the contract, the Act or these regulations.

B. A party to a retail contract pursuant to the Act, which is aggrieved by an action of the Executive Director or his or her designee must receive notice of a right to a hearing and be afforded a hearing within sixty (60) days of the date of notice. An appeal of the Executive Director's decision is to the Commission and then to the Administrative Law Judge Division.

C. As provided in the lottery retailer contract, a lottery retailer shall pay a weekly fee for each dedicated telephone line provided by SCEL to partially defray and recoup the cost of the telephone line and associated telecommunication charges.

D. SCEL may not charge an online service fee to a retailer who sells only instant tickets.

44-40.10. Instant games.

A. The Commission authorizes the Executive Director to select, operate, and contract to and for the operation of instant games which meet the criteria generally set forth in this section.

(1) Instant game criteria.

(a) The price of an instant game ticket shall not be more than ten dollars (\$10.00) unless otherwise approved by the Commission.

(b) Winners of an instant game are determined by the matching or specified alignment of the play numbers, digits and symbols on the tickets. The ticket bearer shall notify SCEL of the win and submit the winning ticket as specified by the Executive Director. The winning ticket shall be validated by SCEL through the use of the validation number and any other means as specified by the Commission.

(c) The instant game shall be designed to pay out prizes in amounts on a numerical frequency to be determined by SCEL.

(d) The duration of ticket sales for an instant game shall be determined by SCEL. The start date and closing date of the instant game shall be publicly announced.

(e) The frequency and determination of a winner in any instant game shall be determined by SCEL in specific game rules.

(f) At SCEL's discretion, an instant game may include a special prize drawing or drawings that make use of the nonwinning instant tickets, so as to encourage nonwinners to accumulate their tickets instead of disposing of them. SCEL shall establish procedures for the additional games.

B. Procedures for claiming instant prizes:

(1) A claimant may present the winning ticket for a prize not exceeding five hundred dollars (\$500) to any lottery retailer or mail the signed ticket to SCEL for payment. If the lottery retailer validates the claim as a valid winner, the lottery retailer must make payment of the amount due the claimant. Prizes shall be paid during the normal business hours of lottery retailer. If the lottery retailer cannot validate the claim, the claimant shall fill out a SCEL claim form and present or mail the completed form, together with the disputed ticket to SCEL. A check shall be forwarded to the claimant in payment of the amount due if the claim is validated. In the event that the claim is not validated, the claimant shall be promptly notified that the claim is denied.

(2) The claimant of a prize of more than five hundred dollars (\$500) shall complete a claim form and mail or present the form together with the winning ticket to SCEL. Upon validation, a check shall be forwarded to the claimant in payment of the amount due. SCEL will deduct from the amount due any applicable federal and state income tax withholdings and any withholding required by Section 59-150-330. In the event that the claim is not validated, the claim shall be denied and the claimant shall be promptly notified that the claim is denied.

(3) Any ticket not passing all the validation checks is invalid and ineligible for payment as a prize. The Executive Director may, solely at his or her option, replace an invalid ticket with an unplayed ticket or tickets of equivalent sales price from any other current game or issue a refund of the sales price. If a defective ticket is purchased, the only responsibility or liability of SCEL is the replacement of the defective ticket with another unplayed ticket or tickets of equivalent sale price from any other current game.

(4) A lottery retailer may pay prizes in cash or by business check, certified check, money order or a combination thereof. A lottery retailer that pays a prize with a check which is dishonored, in addition to full payment of the amount of the check and all nonsufficient funds charges and any other legitimate banking charge, may be subject to suspension or revocation of its license. SCEL may not impose a monetary fine against a retailer who issues a check or other negotiable instrument that is dishonored for the payment of a prize.

C. Official end of game.

(1) SCEL shall announce the official end of each instant game. A ticket may be validated for prize payment up to ninety (90) days after the official end of game. In order to participate in a

special prize drawing, a player shall redeem a ticket which qualifies for entry into that special prize drawing within the time limits governing the conduct of that specific game.

(2) A lottery retailer may continue to sell tickets for each instant game up to ninety (90) days after the official end of that game.

(3) A lottery retailer may return to SCEL full or partial packs of unsold lottery tickets for each game within thirty (30) days of the official end of that game in order to receive credit from SCEL as provided for in the retailers' contract. Partial pack returns shall be allowed when a retailer closes a business, changes ownership, or other criteria approved by the Executive Director. The Lottery has no obligation to grant credit for tickets returned more than thirty (30) days after the last day that a ticket may be sold.

44-40.20. Instant ticket validation requirements.

A. Any instant ticket not passing all the validation requirements in this subsection and the specific validation requirements contained in the rules for its specific game is invalid and ineligible for any prize.

(1) To be a valid lottery instant game ticket, an instant ticket shall meet all of the following validation requirements:

(a) The instant ticket was issued by the Executive Director in an authorized manner;

(b) The instant ticket is not to be altered, mutilated, unreadable, reconstructed, or tampered with in any manner;

(c) The instant ticket is not counterfeit in whole or in part;

(d) The instant ticket is not stolen nor appears in any list of omitted instant tickets on file with SCEL;

(e) The instant ticket is complete and not blank or partially blank, miscut, misregistered, defective, or printed or produced in error;

(f) The instant ticket has the correct number of play symbols and exactly one (1) caption under each of the rub-off spots, exactly one legend (1) pack-ticket number, exactly one legend (1) verification code, exactly one legend (1) validation number and exactly one legend (1) readable bar code. The symbols must be present in their entirety, legible, right-side up, and not reversed in any manner;

(g) The validation number of an apparent winning ticket appears on SCEL's official list of validation numbers of winning instant tickets; and an instant ticket with that validation number has not been previously paid; and,

(h) The instant ticket passes all additional confidential validation requirements established by the Executive Director.

B. Any instant ticket not passing all the validation requirements in this section and the specific validation requirements contained in the rules for its specific game is invalid and ineligible for any prize.

C. Once validated, a lottery retailer must deface the instant ticket in the manner prescribed by the Executive Director or his designee.

44-50.10. Online games.

A. The Commission authorizes the Executive Director to select, operate, and contract for the operation of online games which meet the criteria generally set forth in this subsection.

(1) The base price of an online ticket shall not be less than fifty cents (\$0.50).

(2) The manner and frequency of drawings may vary with the type of online games.

(3) The times, locations, and drawing procedures shall be determined by the Executive Director.

B. A ticket bearer entitled to a prize shall submit the winning ticket for validation. The winning ticket shall be validated as required by the Executive Director.

C. An online game may include a special prize drawing which will stimulate the broad variety of games offered by the Lottery.

D. Procedures for claiming online prizes are as follows:

(1) For a game prize that does not exceed five hundred dollars (\$500.00), the claimant shall present the ticket within one hundred eighty (180) days of the drawing to a lottery retailer or to SCEL for payment.

(2) If the claim is presented to a lottery retailer, the lottery retailer shall validate the claim. If the ticket is determined to be a winning ticket, the lottery retailer shall make payment of the amount due the claimant. If the lottery retailer cannot validate the claim, the claimant may obtain and complete a claim form and submit it with the disputed ticket to SCEL by mail or in person. Upon determination that the ticket is a winning ticket, SCEL shall present or mail a check to the claimant in payment of the amount due. Prizes shall be paid during all normal business hours of the lottery retailer, provided, the online system is operational and claims can be validated. If the ticket is determined to be a nonwinning ticket, the claim shall be denied and the claimant shall be promptly notified. Nonwinning tickets shall not be returned to the claimant.

E. If the claim is presented to SCEL, the claimant shall complete a claim form, as provided by the Executive Director, and submit it with the winning ticket to SCEL by mail or in person. Upon determination that the ticket is a winning ticket, SCEL shall present or mail a check to the claimant in payment of the amount due, less any applicable federal and state income tax withholdings and less any withholding required by Section 59-150-330. If the ticket is determined to be a nonwinning ticket, the claim shall be denied and the claimant shall be promptly notified. Nonwinning tickets shall not be returned to the claimant.

F. To claim an online prize of more than five hundred dollars (\$500), within the limit of one hundred eighty (180) days after the date of the drawing, the claimant shall obtain and complete a claim form, as provided by the Executive Director, and submit it with the winning ticket to SCEL by mail or in person. Upon determination that the ticket is a winning ticket, SCEL shall present or mail a check to the claimant in payment of the amount due, less any applicable federal and state income tax withholdings and any withholdings required by Section 59-150-330. If the ticket is determined to be a nonwinning ticket, the claim shall be denied and the claimant shall be promptly notified. Nonwinning tickets shall not be returned to the claimant.

G. A lottery retailer may pay prizes in cash or by business check, certified check, money order or a combination thereof. A lottery retailer that pays a prize with a check which is dishonored, in addition to full payment of the amount of the check and all nonsufficient funds charges and any other legitimate banking charge, may be subject to suspension or revocation of its license. SCEL may not impose a monetary fine against a retailer who issues a check or other negotiable instrument that is dishonored for the payment of a prize.

44-50.20. Drawing and end of sales prior to drawings.

A. Prize drawings shall be conducted in a location and at days and times designated by the Executive Director.

B. The Executive Director shall announce the time for the end of sales prior to the drawings for each type of online game. Lottery retailers shall not process orders for online tickets for that drawing after the time established by the Executive Director.

C. The Executive Director shall designate the type of equipment to be used, shall establish procedures to randomly select the winning combinations for each type of online game, and shall require the presence of an independent accountant or other suitable individual to witness all pre- and post-drawing tests, and the drawing or winner selection.

D. The Executive Director or his designee shall test the equipment used to determine the winning combination prior to and after each drawing to assure proper operation and lack of tampering or fraud. Drawings shall not be certified until all validation checks are completed. No prizes shall be paid until after the drawing is certified.

E. All online drawings shall be broadcast live on television provided the facilities for

broadcasts are available and operational.

F. The Executive Director shall establish procedures governing the conduct of drawings for each type of online game. The procedures shall include provisions for deviations which include but are not limited to:

- (1) A drawing equipment malfunction before validation of the winning combination;
- (2) A video and/or audio malfunction during the taping of the drawing;
- (3) A fouled drawing;
- (4) A delayed drawing; or
- (5) Other equipment, facility and/or personnel difficulties.

G. The drawing shall be completed under SCEL supervision whenever a deviation occurs. The drawing shall be video taped for later broadcast, if broadcast time is available. The drawing shall be certified and the deviation documented on the certification form. The winning combination shall be provided to the media for dissemination to the public.

H. If, during any live-broadcast drawing for a game, a mechanical failure or operator error causes an interruption in the selection of all digits or symbols, a "Foul" shall be called by SCEL. Any digit or symbol drawn prior to a "Foul" being called shall stand and be declared official after passing lottery validation tests.

I. The Executive Director shall delay payment of all prizes if any evidence exists, or there are grounds for suspicion, that tampering or fraud has occurred. Payment shall be made after an investigation is completed and the drawing certified. If the drawing is not certified, another drawing shall be conducted to determine the actual winner.

44-50.30. On-line ticket validation requirements.

A. To be a valid winning online ticket, all of the following conditions shall be met:

(1) All printing on the ticket shall be present in its entirety, be legible, and correspond, using the computer validation file, to the combination and date printed on the ticket. The ticket is not valid unless the ticket number and other information are recorded in the SCEL computer and transaction master file;

(2) The ticket shall be intact;

(3) The ticket shall not be altered, mutilated, unreadable, reconstructed, or tampered with in any manner;

(4) The ticket shall not be counterfeit or an exact duplicate of another winning ticket;

(5) The ticket shall have been issued by an authorized lottery retailer in an authorized manner;

(6) The ticket shall not have been stolen or canceled;

(7) The ticket shall not have been previously paid; and

(8) The ticket shall pass all other confidential security checks of SCEL.

B. Any ticket failing any validation requirements is invalid and ineligible for a prize.

C. The Executive Director may replace an invalid online ticket with an online ticket for a future drawing of the same game. The Executive Director may pay the prize for a ticket that is partially mutilated or is not intact if the online ticket can still be validated by the other validation requirements, at his or her discretion.

D. In the event a defective online ticket is purchased, the only responsibility or liability of SCEL or the lottery retailer is the replacement of the defective online ticket with another online ticket for a future drawing of the same game.

44-55. Multi-State online games.

A. SCEL may enter into a multi-state agreement for the sale of instant game tickets, online game tickets, and other such related products including game shows and promotional products as authorized by Section 59-150-59. Rules governing the sales, validation and redemption of prizes shall be governed by the multi-state agreement entered into on behalf of SCEL.

44-60. Game rules.

A. The Executive Director shall provide Commission members with draft copies of any additional game rules prior to the beginning of the online games. The Commission may adopt or modify the proposed rules as may be necessary for the efficient and effective operation of the online games.

44-70. Claiming prizes.

A. A claim shall be entered in the name of a single natural person. A guardian may claim a prize if the ticket was received as a gift. No claim may be paid to an individual who is not eighteen (18) years of age. Groups, family units, organizations, clubs or other organizations shall designate one individual in whose name the claim is to be entered.

B. Unless otherwise provided in the rules for a specific type of game, a claimant shall sign the back of the ticket and complete and sign a claim form provided by the Executive Director. The claimant shall submit the claim form and claimant's ticket to SCEL in accordance with the instructions as stated on the claim form and on the back of the ticket. If there is a difference or conflict in the name appearing on the ticket and the claim form, the name which appears on the ticket controls.

C. The claimant, by submitting the claim, agrees to discharge the State, SCEL, its officials, officers and employees of all further liability upon payment of the prize.

D. A prize must be claimed within the time limits prescribed by the Executive Director.

E. The Executive Director or Commission may deny awarding a prize to a claimant if the ticket is printed or produced in error.

F. The Executive Director's decisions and judgments in respect to the determination of a winning ticket or any dispute arising from the payment or awarding of prizes are final, subject to an appeal to the Commission.

G. Unless the rules or procedures for any specific game provide otherwise, SCEL shall have the authority to designate any game be paid in periodic payments. Any prize not designated to be paid in periodic payments by the player or SCEL will be paid in a lump sum less that portion paid to the federal and state government for withholding tax purposes. No schedule of prize payments shall exceed twenty (20) years. To provide periodic prize payments, SCEL may purchase annuities from annuity sellers, securities from the United States government, or any other instruments provided for by law.

44-80. Assigning the right to claim a prize.

A. No person entitled to a prize may assign the right to claim it, except:

(1) That payment of a prize may be made to any legal representative, including, but not limited to, guardians, executors, administrators, receivers, or other court-appointed assignees;

(2) For the purpose of paying federal, state or local tax; or to satisfy executions, judgments, or orders or other processes legitimately obtained from federal or state courts; or

(3) Transfers of remaining lottery annuity prize payments may be assigned as authorized by the Executive Director.

B. In the event that there is a dispute or it appears that a dispute may occur relative to any prize, the Commission or Executive Director may refrain from making payment of the prize pending a final determination of the dispute by the Commission or by a court of competent jurisdiction.

C. A ticket that has been legally issued by a lottery retailer is a bearer instrument until signed. The person who signs the ticket is considered the bearer of the ticket.

D. All prizes shall be paid within a reasonable time after the claims are verified by the Executive Director and a winner is determined in a manner approved by SCEL. The date of the first installment payment of each prize to be paid in installment payments shall be the date the prize event

is validated and certified. Subsequent installment payments shall be made annually from the date of the event in accordance with the type of prize awarded.

E. The Executive Director may, at any time, delay any payment in order to review a change in circumstance relative to the prize awarded, the payee, the claim, or any other matter that may have come to the Executive Director's attention. All delayed payments shall be brought up-to-date immediately upon the Executive Director's confirmation and continue to be paid on each originally scheduled payment date thereafter. If any prize is payable for the life of the claimant, only an individual may claim that prize, and if the individual is claiming on behalf of a group, a corporation, or the like, the life of the claim shall not exceed twenty (20) years.

F. All prizes or portions of prizes which remain unpaid at the time of a prize winner's death are payable to the prize winner's estate.

G. The Executive Director may rely wholly on the presentment of certified copies of a court's appointment of an administrator or executor, guardian, conservator or any other evidence of a person entitled to the payment of any prize winnings then due.

H. The payment to the estate of a deceased owner of any prize winnings by the Executive Director absolves the Commission, Executive Director and employees of the agency of any further liability for payment of the prize winnings. The Executive Director need not look to pay the prize winnings beyond the estate or appointed representative.

I. The Commission or Executive Director may petition any court of competent jurisdiction to request a determination of the payee for payment of any prize winnings which are or may become due the estate of a deceased winner or a winner under a disability because of minority, mental deficiency, or physical or mental incapacity.

J. Whenever the winner of a lottery prize is also a lottery retailer, or is an owner or officer of a partnership or corporation that is a lottery retailer, the Executive Director may offset any debt due SCEL against the amount of the prize due to the winner of the prize.

44-90.10. Financial administration and procedures for collection of the proceeds of lottery games.

A. All lottery retailers are required to make weekly payment for sales using the Electronic Funds Transfer (EFT) system through a dedicated bank account. The lottery retailer is required to establish an account for this purpose with a financial institution participating in the Automated Clearing House (ACH) Network. All amounts due must be deposited to the designated bank account in accordance with Section 59-150-190(B). Partial deposits or payments are not permitted and have no effect in reducing the lottery retailer's liability to SCEL.

B. The lottery retailer will receive a weekly notice from SCEL or through such reporting system or equipment as SCEL may designate, indicating the amount due to SCEL from the lottery retailer. Before 2:00 PM on every Wednesday, or should a banking holiday or other bank closing occur on Wednesday, before 2:00 PM on the immediately following Thursday, the retailer must deposit funds, equal to the amount due to SCEL. Funds must be transferred to SCEL from this account each week. If the balance for the preceding week is a credit due, the amount of the credit due must be transferred to the account of the lottery retailer by SCEL in the following week. The Executive Director may revise or amend the times for making deposits required by this item, upon reasonable notice to the lottery retailer, when it is necessary for the efficient operation of SCEL.

C. SCEL shall not sell or deliver any lottery games or other products to the lottery retailer if the lottery retailer is delinquent in any payment.

D. When a lottery retailer indicates an intent to discontinue the sale of lottery products, any amount owed SCEL by the lottery retailer becomes due immediately, and the lottery retailer shall deposit the amount due in accordance with subsection (B) above.

E. SCEL may combine individual debts owed to SCEL by a lottery retailer for the purpose of issuing a combined assessment.

44-90.20. Collection and enforcement of non-sufficient funds, past due accounts, or Delinquent Accounts.

A. SCEL may suspend lottery activity by any lottery retailer by causing any equipment or other property provided or acquired for specific and exclusive use in lottery operations to be mechanically or electronically disabled, or otherwise rendered useless, as well as by other means provided for by law or regulation, and by discontinuing the sale or delivery of any lottery products, or any other service or function, to the lottery retailer.

B. When a lottery retailer fails to deposit funds as required by R.44-90.10(B), and the related EFT transaction is rejected by the lottery retailer's financial institution, the Executive Director shall convey a written warning informing the lottery retailer of the future consequence of such action. The Executive Director shall suspend all lottery activity by the lottery retailer and/or shall assess a fee against the lottery retailer, or any of these, in accordance with the following schedule:

(1) As to the first occurrence within any twelve-month period, the Executive Director shall convey to the lottery retailer a written warning of the future consequence of such action.

(2) As to the second occurrence in any twelve-month period, the Executive Director shall suspend all lottery activity for a period of up to seven (7) days, and shall assess against the lottery retailer a fine of not less than one hundred dollars (\$100) nor more than ten percent (10%) of the average gross proceeds from lottery sales over the last ten (10) weeks for the retail location.

(3) As to the third occurrence in any twelve-month period, the Executive Director shall suspend all lottery activity for a period of up to thirty (30) days, and shall assess against the lottery retailer a fine of not less than three hundred dollars (\$300) nor more than twenty percent (20%) of the average gross proceeds from lottery sales over the last ten (10) weeks for the retail location.

(4) As to the fourth occurrence in any period, the Executive Director shall revoke any license, or other privilege or authority issued to the lottery retailer by the Executive Director, forthwith.

C. The Executive Director may require a lottery retailer to make payment of any past due or delinquent amount by certified check or wire transfer.

D. In determining whether the provisions of the section have been violated, the Executive Director may exercise discretion as he or she deems appropriate so long as the integrity and security of the Lottery is maintained.

E. The SCEL/lottery retailer relationship contemplates that the lottery retailer will establish and maintain an automated clearing house (ACH) account to facilitate the lottery retailer's payments to SCEL. The lottery retailer's depository institution has no liability for the lottery retailer's failure to remit or deposit as instructed by SCEL. SCEL has no requirement to instruct the lottery retailer's depository bank in the specification of service charges, bank statement production schedules, or any other aspect of the retailer/depository institution relationship.

44-90.30. Financial accounts.

A. Education Lottery Account - The Executive Director shall implement through the State Treasurer's Office an Education Lottery Account in accordance with applicable provisions of state law, and any applicable rules.

B. Prize Disbursement Account - The Executive Director shall establish a Prize Disbursement Account, in a private banking institution, which shall permit the immediate payment of lottery prizes, by check, to the winners.

(1) As nearly as practical, the total expenditures from the Prize Disbursement Account combined with any prizes paid by the lottery retailers, shall be no less than forty-five percent (45%) of gross amount received from the sale of lottery games.

(2) Access to the account for purposes of drawing checks shall be limited to those persons expressly authorized by the Executive Director to operate secure check writing machines and who are provided security keys and computer keys for their operation incident to their official duties.

(3) All checks issued from the Prize Disbursement Account shall prominently display the logo of the Lottery.

(4) Checks in payment of prizes drawn upon the Prize Disbursement Account may be issued under the signature of the Executive Director, his or her designee, or the authorized facsimile of his or her signature.

(5) The agency shall settle lottery retailer accounts no less frequently than weekly, unless the Executive Director specifies a different time.

(6) The Executive Director may make payments from the Prize Disbursement Account to lottery retailers for purposes of refund or credit for unsold tickets, other ticket sales adjustments or instant game account adjustments.

44-90.40. Bonds.

A. The Executive Director may require a bond, securities, or an irrevocable letter of credit from a lottery retailer in an amount determined by the Executive Director consistent with the financial stability of the retailer, to avoid monetary loss to the state because of the activities of a lottery retailer. The bond must be on an approved form through a company authorized to do business in this state and approved by the Executive Director. If securities are deposited or an irrevocable letter of credit filed, the securities or letter of credit must be of a type or in a form approved by the Executive Director.

44-100. Supplying of identifying numbers.

A person required to make a payment, statement, or other document to SCEL shall include in such payment, statement, or other document such identifying numbers as may be prescribed by the Executive Director for securing proper identification of such person.

44-110. Forms.

Lottery retailers shall file with the lottery, or its designated representatives, reports of the lottery retailer's receipts and transactions in the sale of lottery games on a form or in a manner as the Executive Director may require.

44-120. Reports.

The Executive Director may prepare such daily, monthly, and annual reports as may be necessary for the efficient and effective operation of the lottery, including but not limited to, the number of lottery retailers licensed; the number of new licenses applied for; the number of retail licenses suspended, revoked, or canceled; and such other information and reports as the Commission may request. The Executive Director shall provide to the Commission any such reports periodically as may be requested or appropriate to fully inform the Commission regarding licensure activity.

44-130. Use of Lottery trademarks.

A. Lottery retailers may use, and display the Lottery Logo, trademark, and other advertising materials without charge to the user or compensation to SCEL for its use.

B. Any use of the Lottery Logo or other trademarked or copyright materials, other intellectual property, or copy in advertising or production of consumer articles requires a prior written request and execution of the Retailer Contract.

C The Executive Director may exercise supervision over the quality of the materials produced under trademark licensing agreement, and may require as a condition to continuation of the license, changes in quality of the goods or material produced.

D. The Commission and Executive Director may at any time terminate an agreement to license in the event that the licensee fails to meet the requirement of the agreement, or in the event that the continuation of the license is not considered to be in the best interest of SCEL or of the State of South Carolina.

44-140. Games prohibited.

A. Nothing in these regulations may be construed to allow any lottery or lottery games prohibited by Sections 59-150-20(7), 12-21-2710, 16-19-40 and 16-19-50.

Preliminary Fiscal Impact Statement:

There will be no increased costs to the State or its political subdivisions.